

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

**ANNA BROCK, by and through
her parents and next friends, JERRY
and MELINDA BROCK**

PLAINTIFFS

V.

CIVIL ACTION NO.: 1:08CV204-SA-JAD

ALCORN COUNTY SCHOOL DISTRICT

DEFENDANT

**ORDER GRANTING MOTION TO SET ASIDE
DEFAULT AND GRANTING LEAVE TO FILE ANSWER**

Presently before the Court is Defendant's Unopposed Motion to Set Aside Entry of Default and for Leave of Court to File Answer [6]. After reviewing the parties' submissions and relevant law, the Court finds that Defendant has demonstrated good cause for its delay in answering the Complaint. Therefore, Defendant's Motion to Set Aside Default and Leave to File Answer [6] is GRANTED. The Court specifically finds as follows:

The Complaint in this matter was filed on August 18, 2008. The Summons and Complaint were served on Defendant, Alcorn County School District, on August 28, 2008. On September 11, 2008, Defendant contacted Plaintiff's counsel and requested additional time to answer the Complaint up to and including October 17, 2008. According to Defendant, additional time was needed to conduct an investigation into this matter. Plaintiff's counsel agreed to the additional time up to and including October 17, 2008. The parties did not make the Court aware of their agreement, and on October 7, 2008, a Clerk's Notice of Default was entered as to Alcorn County School District. Defendant has filed an Unopposed Motion to Set Aside Entry of Default and for Leave of Court to File Answer.

Pursuant to Federal Rule of Civil Procedure 55(c), a court may set aside an entry of default

upon a showing of good cause. In making this determination, a court considers: (1) whether the default was willful; (2) whether setting it aside would prejudice the adversary; and (3) whether a meritorious defense is presented. CJC Holdings, Inc. v. Wright & Lato, Inc., 979 F.2d 60, 64 (5th Cir. 1992). The Motion to Set Aside Default stands unopposed by the Plaintiff. After reviewing the Defendant's explanation for its delay in answering the Complaint and evaluating the above-listed factors, the Court is convinced that the Clerk's Entry of Default should be set aside. Accordingly, Defendant's Unopposed Motion to Set Aside and for Leave to File Answer is GRANTED.

SO ORDERED, this the 30th day of March, 2009.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE